

VZCZCXRO3424  
PP RUEHPT  
DE RUEHBY #0542 1480446  
ZNR UUUUU ZZH  
P 270446Z MAY 08  
FM AMEMBASSY CANBERRA  
TO RUEHC/SECSTATE WASHDC PRIORITY 9621  
INFO RUEHWL/AMEMBASSY WELLINGTON PRIORITY 5327  
RUEHBN/AMCONSUL MELBOURNE PRIORITY 5288  
RUEHPT/AMCONSUL PERTH PRIORITY 3570  
RUEHDN/AMCONSUL SYDNEY PRIORITY 3485

UNCLAS CANBERRA 000542

SENSITIVE  
SIPDIS

G/TIP FOR SALLY NEUMANN

E.O. 12958: N/A

TAGS: [PGOV](#) [PHUM](#) [SOCI](#) [KWMN](#) [AS](#)

SUBJECT: HIGH COURT HEARS CASE ON SLAVERY AND TRAFFICKING

11. (U) SUMMARY: On May 13 the High Court of Australia heard an appeal of a brothel owner who was convicted for enslaving five Thai prostitutes who had incurred a debt of A\$45,000 when they were recruited to work in a brothel in Melbourne. The brothel had been raided in 2003 and the owner, Wei Tang, had been convicted of "possessing a slave." This was the first major trafficking-in-persons conviction in Australia. The conviction was overturned by the State of Victoria's supreme court in 2007 and the Federal Government appealed to the High Court. The Court will decide how Australia legally defines slavery and the possession of one person by another. The case is the most significant test of Australia's criminal laws against sexual and all other forms of slavery ever to come before an Australian court. A decision is expected by August. END SUMMARY

12. (U) On May 13, the highest court in Australia, the High Court in Canberra, heard an appeal of a conviction of Melbourne brothel owner Wei Tang for slavery. The question before the court was whether five Thai prostitutes were, in fact, slaves that had been confined against their will until they paid off a A\$45,000 debt they had incurred in coming to Australia in 2002 to work in the sex industry. The key issue for the courts was whether the confinement and treatment of the prostitutes amounted to slavery, which is punishable by up to 25 years in prison, or was in fact merely exploitive treatment of five sex workers (a legal trade in several jurisdictions in Australia), where the punishment is much less severe. Tang had been convicted of five counts of possessing a slave and five counts of exercising the power of possession over the prostitutes and had been sentenced to 10 years in prison. The conviction was overturned on appeal by the state of Victoria's supreme court, and the Federal Government subsequently appealed to the High Court.

13. (U) The five Thai women, who had worked as prostitutes in Thailand, arrived in Australia in 2002. They were told they were "contract girls" who owed a "debt" of A\$40,000-45,000 that they had to work off (a figure much higher than they had been led to expect). To repay the debt, they had to provide sexual services for up to 900 men. The girls were housed together in bedrooms with mattresses on the floor. Tang confiscated their passports and airline tickets and restricted their freedom of movement. They worked 10-12 hour shifts six nights a week just to reduce their debt. To earn any money for themselves, the girls worked on their day off. The brothel was raided in 2003 and Tang, the manager, and an associate were charged with slave-trading offenses. While the associate pled guilty, the manager was acquitted at trial and the jury was unable to reach a verdict against Tang. In 2006, Tang was retried and convicted. It was the first successful prosecution of sex-slave traders under 1999 federal anti-trafficking laws -- until that conviction was overturned on appeal.

14. (U) A key fact for the courts was that two of the girls continued to work in the brothel after they had paid off their debts. One High Court justice said during the hearing that if slavery were not carefully defined "then lots of harsh employment contracts are going to slip over into slavery and are going to be prosecuted with a potential of 25 years imprisonment on conviction...There are an awful lot of people working in back rooms of restaurants and in the 'rag trade' whose employers would be susceptible to prosecutions for slavery." One of the Government's attorneys responded that "they worked for six months for next to no money." The Australian Human Rights and Equal Opportunity Commission urged the Court to move beyond the historical notion of chattel slavery and adopt the contemporary understanding of slavery in international law.

15. (SBU) COMMENT: The director of the Anti-Slavery Project in Sydney, Jennifer Burn, told us May 23 that the key issue is whether the statutory definition of slavery under Australian criminal law encompasses modern-day slavery. A slavery conviction can be punished by up to 25 years in prison whereas the other trafficking offenses have much less severe penalties. Burn and her NGO colleagues are currently pushing the Government to increase the punishment for debt bondage beyond a maximum of 12 months in prison. While there are now offenses for trafficking, trafficking in children and debt bondage, the High Court's decision will provide clarity to the courts -- and help the Rudd Government decide how and if it must amend the anti-trafficking laws in Australia.

MCCALLUM